

Message Text

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ACTION IO-13

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JUSE-00 NSAE-00 SNM-02 TRSE-00 USIA-15 NSC-05
OES-06 OMB-01 AGRE-00 IGA-02 AID-05 MED-03 DODE-00
HEW-06 L-03 H-02 /081 W
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P 212040Z MAR 77
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC PRIORITY 0669
INFO AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO
USMISSION GENEVA

UNCLAS BRASILIA 2212

E.O. 11652: N/A
TAGS: SNAR, BR
SUBJECT: CONGRESSIONAL HEARINGS ON DECRIMINALIZATION OF MARIJUANA

REF: STATE 57902

1. REFTEL REQUESTED DATA FOR US CONGRESS ON FOREIGN LAWS
AND ENFORCEMENT PRACTICES PERTAINING TO MARIJUANA. THIS
TELEGRWT RESPONDS FOR BRAZIL.

2. PRINCIPAL BRAZILIAN LEGAL PROVISIONS ARE AS FOLLOWS:
A. NO LEGAL DISTINCTION IS DRAWN BETWEEN MARIJUANA AND
"HARD DRUGS".
B. THE PENALTY FOR CULTIVATION, MANUFACTURE, TRANSPORT, OR
DISTRIBUTION OF NARCOTICS (INCLUDING MARIJUANA), WHETHER
OR NOT FOR SALE OR PROFIT, IS IMPRISONMENT FOR A PERIOD
OF FROM THREE TO FIFTEEN YEARS, PLUS A FINE OF FROM FIFTY
TO THREE HUNDRED SIXTY "DAYS-FINE". (THE "DAY-FINE" IS A
VARIABLE UNIT OF MEASURE WHOSE EXACT VALUE IS FIXED, WITHIN
BROAD LIMITS, BY THE SENTENCING JUDGE. THOSE LIMITS, AT
CURRENT EXCHANGE RATES, ESTABLISH A MINIMUM UNIT VALUE
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OF APPROXIMATELY TWO DOLLARS AND A MAXIMUM OF APPROXIMATELY
TWENTY DOLLARS. THUS, THE FINE FOR CRIMES UNDER (B) MAY VARY
FROM A LOW OF ONE HUNDRED TO A HIGH OF SEVEN THOUSAND TWO
HUNDRED DOLLARS).

C. PENALTY FOR CONSPIRACY TO COMMIT THE OFFENSES UNDER
(B): THREE TO TEN YEARS' IMPRISONMENT PLUS FINE OF BETWEEN
FIFTY AND THREE HUNDRED SIXTY "DAYS-FINE".

D. PENALTY FOR PERSONAL USE, POSSESSION OF MARIJUANA (OR OTHER DRUGS): SIX MONTHS' TO TWO YEARS' IMPRISONMENT, PLUS FINE OF BETWEEN TWENTY AND FIFTY "DAYS-FINE" (FORTY TO ONE THOUSAND DOLLARS).

E. PENALTIES ARE INCREASED BY ONE TO TWO THIRDS IN CASES INVOLVING INTERNATIONAL TRAFFICKING, CORRUPTION OF MINORS, OR COMMISSION OF THE OFFENSE IN OR NEAR SCHOOLS, HOSPITALS, OR RECREATIONAL AND CULTURAL FACILITIES.

F. A PERSON WHO, BECAUSE OF DRUG DEPENDENCE OR THE EFFECT OF DRUGS, IS INCAPABLE OF UNDERSTANDING THE ILLICIT NATURE OF HIS ACT OR OF CONTROLLING HIS ACTIONS, IS EXEMPT FROM PENALTY. IF THE PERSON POSSESSES ONLY PARTIAL UNDERSTANDING, THE PENALTY CAN BE REDUCED BY FROM ONE TO TWO THIRDS.

G. THOSE EXEMPTED FROM PENALTY UNDER (F) ARE REQUIRED TO UNDERGO TREATMENT FOR ADDICTION, NORMALLY ON AN OUT-PATIENT BASIS. DRUG ADDICTS SENTENCED NPO PRISON MUST UNDERGO TREATMENT THERE. (GIVEN THE RUDIMENTARY INFRASTRUCTURE FOR TREATMENT, THESE PROVISIONS REMAIN MORE AND IDEAL AND IMPERATIVE TO FUTURE DEVELOPMENT, THAN A STATEMENT OF CURRENT REALITIES.)

2. OUR INFORMATION ON BRAZILIAN ENFORCEMENT PRACTICES SUGGESTS THAT WHILE CRIMES OF TRAFFICKING IN MARIJUANA ARE PROSECUTED WITH NO LESS VIGOR THAN THOSE INVOLVING HARD DRUGS, PERSONAL USE MARIJUANA OFFENSES, AT LEAST THOSE NOT INVOLVING CHRONIC RECIDIVISM, ARE TREATED QUITE LIGHTLY AND IN MANY INSTANCES ARE NOT PROSECUTED AT ALL, IN PART BECAUSE OF THE HEAVILY OVERBURDENED STATE OF THE BRAZILIAN LAW ENFORCEMENT AND JUDICIAL SYSTEMS.

CRIMMINS

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